

1 UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF WASHINGTON
3 AT SEATTLE

4 IN RE: PHENYLPROPANOLAMINE
5 PRODUCTS LIABILITY LITIGATION,

MDL NO. 1407

6 This document relates to the
7 cases listed on Exhibits A and
8 B

ORDER RE:
RETAILER DEFENDANTS

10 **I. INTRODUCTION**

11 The retailer defendants in the cases listed on Exhibits A
12 and B attached hereto have moved to be dismissed from these
13 actions pursuant to Fed. R. Civ. P. 12(b)(6), on the basis that
14 plaintiffs failed to state a claim against them upon which relief
15 can be granted. Having reviewed the motions, the responses that
16 were filed, and the replies thereto, the court hereby finds and
17 rules as follows:

18 **II. BACKGROUND**

19 The Multi-district Litigation 1407 ("MDL") plaintiffs filed
20 actions against numerous manufacturers and retailers for personal
21 injuries allegedly related to the ingestion of over-the-counter
22 cold and/or weight loss medicine containing phenylpropanolamine
23 ("PPA"). Although many of these actions were originally filed in
24 state court, some were removed to federal court based on diver-
25 sity of citizenship under 28 U.S.C. § 1332 and then transferred
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1 to this court to be part of the MDL. In their removal petitions,
2 the removing defendants argued that the non-diverse retailer
3 defendants were fraudulently joined under state law because
4 plaintiffs failed to state a cognizable cause of action against
5 them. Many of the plaintiffs moved to remand the cases back to
6 state court. With few exceptions, the court denied these mo-
7 tions, finding that the retailer defendants had been fraudulently
8 joined. Based in large part on the court's prior orders denying
9 remand, many of the retailer defendants now move the court to
10 dismiss the claims against them, with prejudice, pursuant to Fed.
11 R. Civ. P. 12(b)(6).

III. DISCUSSION

13 | A. Standard for Motion to Dismiss

14 Federal R. Civ. P. 12(b)(6) authorizes a court to dismiss a
15 complaint for failure to state a claim upon which relief can be
16 granted. A complaint will be dismissed under Fed. R. Civ. P.
17 12(b)(6) only if it fails to present a set of facts which, if
18 proven to be true, would entitle the plaintiff to legal redress.

19 See Abramson v. Brownstein, 897 F.2d 389, 391 (9th Cir. 1990).
20 In considering a motion to dismiss brought under Rule 12(b)(6),
21 the court must accept all facts alleged in the complaint to be
22 true, and draw all inferences from those facts in the light most
23 favorable to the plaintiff. Id. A plaintiff cannot survive a
24 motion to dismiss however, on conclusory legal claims alone.

25 See Buckey v. County of Los Angeles, 968 F.2d 791, 794 (9th Cir.
26 1992).

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1 B. The Motions to Dismiss Require Case-Specific Analysis

2 The retailer defendants have filed group and individual
3 motions suggesting that the court should rule on the motions en
4 masse.¹ However, the very nature of a motion to dismiss prevents
5 such a global ruling. Without examining the plaintiffs' individ-
6 ual complaints and applying the applicable state law to the same,
7 the court cannot determine whether each plaintiff has suffi-
8 ciently pled facts, that if proven to be true, would entitle the
9 plaintiff to legal redress.

10 As the court has stated in prior orders, making such case-
11 specific rulings are neither the purpose, nor the forte, of a
12 court presiding over a multi-district litigation. A MDL seeks to
13 promote judicial economy and litigant efficiency by allowing the
14 transferee court to preside over matters common among all cases.

15 In re Madridia Products Liability Litigation, 2004 WL 1725430,
16 (N.D. Ohio 2004). Given this function, the transferee court
17 typically does not rule on cumbersome, case-specific legal
18 issues. Id. at *5; In re Orthopedic Bone Screw Prods. Liab.
19 Litig., 1997 WL 109595, **2-3 (E.D. Pa. 1997) (finding that
20 adjudication of summary judgment motions pertaining to state law
21 claims would slow down the MDL process, thereby deferring state
22 law dispositive motions to the transferor courts). The MDL
23 procedure is instead designed to maximize efficiency and fairness

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25 ¹ So far, retailers have filed motions to dismiss which
26 involve over 300 cases and the substantive law of at least three
states.

1 by minimizing both the sheer number of rulings required, and any
2 discrepancies between and among them. See 28 U.S.C. § 1407; In re
3 Plumbing Fixture Cases, 298 F. Supp. 484, 491-92 (J.P.M.L. 1968)
4 ("The purpose of Section 1407 as shown independently by its clear
5 language ... makes it clear that its remedial aim is to eliminate
6 the potential for conflicting contemporaneous pretrial rulings by
7 coordinate [sic] district and appellate courts in multidistrict
8 related civil actions.") Indeed, 28 U.S.C. § 1407 specifically
9 appears to contemplate a more narrow role for an MDL transferor
10 court; as the Ninth Circuit has noted, "there must be some
11 pretrial motions MDL courts are not authorized to rule upon
12 because section 1407(a) does not transfer the case for the
13 conduct of all pretrial proceedings, only those that are 'coordi-
14 nated or consolidated.'" In re American Continental Corpora-
15 tion/Lincoln Sav. & Loan Securities Litigation, 102 F.3d 1524,
16 1543 (9th Cir. 1996) (rev'd on other grounds sub nom. Lexecon Inc.,
17 v. Milberg Weiss Bershad Hynes & Lerach, 523 U.S. 26 (1998)).

18 Therefore, because the motions require a case-specific
19 analysis not appropriate for an MDL court, the retailers' motions
20 listed on Exhibit A, with the exception of those motions listed
21 in italics, are stricken and should be refiled with the trans-
22 feror court upon remand, where appropriate.² Those motions
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24 ² In the following two cases, Davis v. Bayer Corporation,
25 et al., MDL No. 03-CV-2107-BJR and Jackson v. Bayer Corporation,
et al., 03-CV-2104-BJR, the plaintiffs filed motions seeking to
strike the defendant retailers' motions to dismiss as untimely.
26 The court agrees and strikes the retailers' motions in these two

1 listed on Exhibit A that are in italics are also stricken, but
2 are stricken because the motions involve actions where a stay is
3 in effect as to either defendants Chattem, Inc., The Delaco
4 Company or Sidmak Laboratories, Inc. k/n/a Pliva. These motions
5 are stricken pursuant to the court's July 16, 2004 Minute Order
6 striking motions pending in cases where a stay is in effect.
7 Listed on Exhibit B are those retailers' motions to which plain-
8 tiffs did not object, thereby conceding that they did not state a
9 claim against the retailer defendants. The court grants these
10 motions.

11 **IV. CONCLUSION**

12 For the foregoing reasons, the retailer defendants' motions
13 set forth on Exhibit A are STRICKEN. The motions listed on
14 Exhibit B are GRANTED.

15 DATED at Seattle, Washington this 3rd day of September,
16 2004.

17 s/Barbara Jacobs Rothstein

18 UNITED STATES DISTRICT JUDGE

25 cases as untimely pursuant to the court's November 17, 2003
26 order.

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EXHIBIT A
MISSISSIPPI

MPL CT NO.	DISTRICT COURT NO.	CASE CAPTION	RETAILER(S)
2:03-cv-03650-BJR	2:03cv74	Adam, Barbara v. Bayer Corporation, et al	Sunflower Food Store
2:03-cv-03387-BJR	2:03cv73	Addison, Tawyna v. Novartis, et al	Wal-Mart
2:03-cv-03549-BJR	5:03cv124	Aidt, Rhonda Darlene v. Bayer Corporation, et al	Clark Oil
2:04-cv-00721-BJR	2003cv182	Aidt, Jeffery Lynn v. GlaxoSmithKline, et al	Clark Oil
2:03-cv-03591-BJR	2:03cv82	Ainsworth, Catherine v. Wyeth, et al	Wal-Mart
2:03-cv-03172-BJR	2:03cv82	Ainsworth, Catherine et al v. Wyeth, et al	Bings Total Discount Market, Columbia Discount Drugs, Fred's, Petal Drug Company, Steelman Grocery, Sanders, Wal-Mart, Kroger
2:02-cv-0883-BJR	5:01cv00340	Alexander, Freddie v. Bayer Corporation, et al	McDaniel Pharmacy
2:03-cv-02242-BJR	3:02cv1844	Anderson, James v. Bayer Corporation, et al	Rite Aid , Wal-Mart
2:04-cv-00022-BJR	5:03cv188	Anderson, James et al v. Bayer Corporation, et al	Wal-Mart, Walco, Super D, Rite Aid
2:03-cv-03403-BJR	2:03cv78	Anderson, Willie Mae v. Block Drug, et al	Sam Sing
2:03-cv-03516-BJR	5:03cv270	Archer, Linda v. Wyeth, et al	Walgreen Co.
2:03-cv-03592-BJR	2:03cv74	Archer, William Wesley v. Bayer Corporation, et al	Winn-Dixie
2:03-cv-03594-BJR	2:03cv82	Babb, Wanda v. Wyeth, et al	Wal-Mart Stores

<u>MDL CT NO.</u>	<u>DISTRICT COURT NO.</u>	<u>CASE CAPTION</u>	<u>RETAILER(S)</u>
2:03-cv-02105-BJR	2:01cv12	Babineau, Alice v. Bayer Corporation, et al	E-Z Service Convenience, Fred's Inc., JFM INC, K-mart Corp, Waring Oil Co
2:03-cv-03759-BJR	3:03cv25	Bailey, Ozell, et al v. American Home Products, et al	Edwards Pharmacy, Wal-Mart
2:03-cv-03509-BJR	5:03cv270	Banks, Johnny v. Wyeth, et al	Super D Drugs
2:03-cv-03595-BJR	03cv00070	Barlow, Michael v. GlaxoSmithKline, et al	Fred's Stores of Tennessee
2:03-cv-03596-BJR	2:03cv74	Barnett, Michcalene v. Bayer Corporation, et al	Wells Discount Drugs
2:03-cv-03597-BJR	2:03cv74	Bass, Earlean v. Bayer Corporation, et al	Winn-Dixie
2:03-cv-03415-BJR	2:03cv73	Blakeney, Donna Odom v. Novartis Consumer Health, Inc., et al.	Eckerd
2:03-cv-02488-BJR	3:02cv1844	Blackwell, William v. Bayer Corporation, et al	Wal-Mart
2:03-cv-03388-BJR	2:03cv78	Boykins, Carlos v. Wyeth, et al	R.L. Aaron's Inc.
2:03-cv-02169-BJR	4:02cv521	Bradie, Roberta v. Wyeth, et al	Fred's, Canton Discount Drugs, Rite-Aid, Hudson's, Winn Enterprises
2:03-cv-2851 BJR	02cv562	Brister, Paul v. Bayer Corporation, et al	J&B Handy Mart
2:04-cv-00839-BJR	03cv290	Brooks, George et al. v. Bayer Corporation, et al	Double Quick
2:03-cv-03517-BJR	5:03cv270	Brown, Kirk v. Perrigo, et al	Long's Pharmacy, Fred's, Rite-Aid, Super D, Walgreens, Wal-Mart
2:03-cv-02732-BJR	5:03cv110	Brown, Lessie v. Bayer Corporation, et al	People's Drug Store

<u>MDL CT NO.</u>	<u>DISTRICT COURT NO.</u>	<u>CASE CAPTION</u>	<u>RETAILER(S)</u>
2:03-cv-03401-BJR	2:03cv78	Brown, Shirley Ann v. Block, et al	Double Quick
2:03-cv-02102-BJR	4:02cv169	Bryant, Johnnie C. v. Novartis, et al	Fred's
2:02-cv-02535-BJR	4:02cv151	Burchfield, Kathleen v. American Home Products, et al	Gilbow's
2:03-cv-01110-BJR	5:03cv139	Burton, Flora v. Bayer Corporation, et al	Rite-Aid
2:03-cv-02737-BJR	03cv156	Butler, Renee v. Smithkline Beecham, et al	Morgantown Pharmacy
2:02-cv-01528-BJR	2:02cv178	Buxton, Delois v. Novartis Consumer Health, Inc., et al.	Thomas Pharmacy
2:03-cv-02708-BJR	2:03cv40	Campbell, George et al v. Bayer Corporation, et al	Double Quick
2:03-cv-03458-BJR	2:03cv78	Carpenter, Eunice v. Block Drug, et al	Fred's Super Discount Store
2:03-cv-03595-BJR	03cv00070	Carter, Stephanie v. GlaxoSmithKline, et al	Wal-Mart
2:04-cv-00711-BJR	04-cv-16	Catchings, Sylvia v. Wyeth, et al	Deweese Enterprises
2:03-cv-03410-BJR	2:03cv83	Cavett, Lula Harvison v. Wyeth, et al.	Fred's Inc. d/b/a Fred's Discount Pharmacy
**/2:03-cv-02094		<i>Chambers, Priscilla v. Bayer Corporation, et al</i>	<i>Cooley Drug, Inc.</i>
03-cv-03604	03cv00082	Chapman, Oralee v. Bayer Corporation, et al.	D& H enterprises, Inc. d/b/a Big Star Supermarket
2:04-cv-00020-BJR	5:03cv174	Chasey, James v. Bayer Corporation, et al	Bankston Drugs

¹** indicate a case where Chattem, Delaco, and/or Sidmaks (Pliva) is currently a named defendant.

<u>MDL CT NO.</u>	<u>DISTRICT COURT NO.</u>	<u>CASE CAPTION</u>	<u>RETAILER(S)</u>
2:03-cv-01347-BJR	03cv00198	Chatman, Inez v. Bayer Corporation, et al	McDaniel Pharmacy
2:03-cv-03034		Chatman, Mack v. Bayer Corporation, et al	Family Dollar Stores of Mississippi, Inc.
2:03-cv-02863-BJR	5:03cv270	Clark, Jannie et al v. Wyeth, et al	Long's Pharmacy, Fred's, Rite-Aid, Super D, Walgreens, Wal-Mart
2:03-cv-03541-BJR	5:03cv124	Clark, Ruby v. Wyeth, et al	Eckerd's
2:03-cv-02092-BJR	02cv149	Clay, Dorothy Ann, et al v. Wyeth, et al	Jue's Foodland
2:03-cv-02285-BJR	3:02cv182	Coleman, Eula, et al v. Bayer Corporation, et al	Wal-Mart
2:03-cv-00599-BJR	3:02cv182	Coleman, Eula, et al v. Bayer Corporation, et al	Wal-Mart
2:01-cv-01700-BJR	3:01cv576	Compton, Donna, et al v. Wal-Mart, et al	Wal-Mart
2:03-cv-03022-BJR	3:03-cv-64M-B	Conner, Eula Jones v. Wyeth, et al	Tyson Drugs
2:03-cv-02109-BJR	1cv272	Conway, Bernice v. Bayer Corporation, et al	Double Quick
2:03-cv-02236-BJR	3:02cv1844	Craft, Emma v. Bayer Corporation, et al	Rite Aid, Wal-Mart
2:03-cv-02235-BJR	3:02cv1844	Creel, Lori v. Bayer Corporation, et al	Rite Aid
2:03-cv-03540-BJR	5:03cv124	Crosby, Vicky v. Wyeth, et al	Rite Aid
2:03-cv-02234-BJR	3:02cv1844	Crossley, Rose v. Bayer, et al.	Rite Aid
2:03-cv-03854-BJR	2:03cv189	Curr, Elaine v. Wyeth, et al	Rite Aid
2:03-cv-03605-BJR	2:03cv82	Cyrus, Carolyn v. Wyeth, et al	Columbia Discount Drugs
2:03-cv-03511-BJR	5:03cv270	Dampier, Jimmie v. Wyeth, et al	Super D Drugs

<u>MDL CT NO.</u>	<u>DISTRICT COURT NO.</u>	<u>CASE CAPTION</u>	<u>RETAILER(S)</u>
2:03-cv-03860-BJR	2:03cv189	Daniels, Anthony v. Wyeth, et al	Rite Aid
2:03-cv-02283-BJR	3:02cv182	Da'Quila, Philip v. Wyeth, et al	Wal-Mart
2:03-cv-03606-BJR	2:03cv74	Davis, Cecil Wayne v. Bayer Corporation, et al	Wal-Mart
2:03-cv-02739	03cv00159	Davis, Emma v. Bayer Corporation, et al	McDaniel Pharmacy
2:03-cv-02107-BJR	2:01cv12	Davis, Gregory, et al v. Waring Oil, et al	JFM, Inc.
2:02-cv-00422-BJR	2:01cv12	Davis, Gregory, et al v. Waring Oil, et al	E-Z, Fred's, Junior Food Mart Waring Oil, K-Mart
2:03-cv-03204-BJR	5:03cv172	Davis, Kenneth v. Bayer Corporation, et al	Brumfield Oil Company, Holmes Discount Drugs, People's Drug Store, Winn Enterprises
2:04-cv-00713	04-cv-24	Davis, Vanessa v. Bayer Corporation, et al	Kmart Corporation; Waring Oil Co.
2:03-cv-03607-BJR	2:03cv82	Donaldson, Willye R. v. Wyeth, et al	Fred's Super Dollar Store
**2:01-cv-01702-BJR	5:01cv265	<i>Drayton, Shirley v. Novartis Consumer Health, Inc. et al</i>	<i>Bankston Rexall</i>
2:03-cv-03752-BJR	2:03cv1932	Donald, Barbara v. Wyeth, et al	Wal-Mart
2:04-cv-00177-BJR	2:03cv83	Dubose, Tcaressa v. Wyeth, et al.	Rite Aid
2:03-cv-02282-BJR	3:02cv182	Duncan, Louise v. Wyeth, et al	Wal-Mart
2:04-cv-00353-BJR	4:03cv207	Dunlap, Verna, et al v. Bayer Corporation, et al	Double Quick
2:04-cv-00014-BJR	4:03cv207	Dunlap, Verna, et al v. Bayer Corporation, et al	Double Quick
2:03-cv-03538-BJR	5:03cv124	Edwards, Deola v. Novartis, et al	Wal-Mart

<u>MDL CT NO.</u>	<u>DISTRICT COURT NO.</u>	<u>CASE CAPTION</u>	<u>RETAILER(S)</u>
2:03-cv-03609-BJR	2:03cv82	Evans, Easter v. Wyeth, et al	Petal Drug Inc.
2:03-cv-03610		Evans, Maggie v. Wyeth, et al	Plaza Drug Store
2:03-cv-02231-BJR	3:02cv1844	Everhart, Shirley v. Bayer, et al.	Rite Aid , Wal-Mart
2:03-cv-03537-BJR	5:03cv124	Faucette, Henry v. Wyeth, et al	Eckerd Drug Store
2:03-cv-02711-BJR	2:03cv79	Fields, Eugene v. Bayer Corporation, et al	C&C Drugs
2:03-cv-02096-BJR	4:01cv272-EMB	Fields, Janell v. Novartis Consumer Health, Inc., et al	Deweese
2:03-cv-03612-BJR		French, Earlie v. Bayer Corporation, et al	Kilgore's Inc.
2:03-cv-03613-BJR	2:03cv82	Fulford, Mary Taylor v. Wyeth, et al	Bing's Total Discount Market
2:03-cv-01108-BJR	5:03cv105	Gaines, Gilbert v. Bayer Corporation, et al	Treppendahl and Sons
2:03-cv-03201-BJR	5:03cv172	Gallagher, KecDarrylon v. Bayer Corporation, et al	Brumfield Oil Co Inc.
2:03-cv-02723-BJR	3:03cv136	Gardner, Charlotta v. Bayer Corporation, et al	City Drug Store of Hazlehurst d/b/a Rose's Discount Drugs
2:03-cv-03614-BJR	2:03cv74	Gavin, Odell v. Bayer Corporation, et al	Wells Discount Drugs
2:03-cv-03005-BJR	3:03cv532	Goodman, Carrie v. Bayer Corporation, et al	Fred's, Wal-Mart
2:03-cv-03861-BJR	2:03cv189	Green, L.C. v. Wyeth, et al	Rite Aid
2:03-cv-02112-BJR	4:02cv169	Grisham, Tina B. v. Wyeth, et al	Fred's
**2:03-cv-02729		<i>Lessie Hales v. Chattem, Inc. et al</i>	<i>Standard Marketing Drug, Inc.</i>

<u>MDL CT NO.</u>	<u>DISTRICT COURT NO.</u>	<u>CASE CAPTION</u>	<u>RETAILER(S)</u>
2:03-cv-03617-BJR	2:03cv74	Hannah, Charles v. Bayer Corporation, et al	Sanders Pharmacy
03-cv-2759 BJR	3:03cv529WS	Harris, Linda v. Perrigo, et al.	Wal-Mart
2:04-cv-00351-BJR	4:03cv207	Harris, Loretta v. Wyeth, et al	Double Quick
2:03-cv-03408-BJR	2:03cv83	Harvison, Cecelia I v. Wyeth, et al.	Sunflower Food Store
2:03-cv-03856-BJR	2:03cv189	Henderson, Kayanna v. Wyeth, et al	Rite Aid
2:03-cv-03619-BJR	2:03cv74	Hill, Annette v. Bayer Corporation, et al	Sunflower Food Store
2:03-cv-03533-BJR	5:03cv124	Hinton, Trena Dyane v. Wyeth, et al	Clayton Drug Store
2:03-cv-03620-BJR	2:03cv74	Hopkins, James P. v. Bayer Corporation, et al	Mitchell's Supermarket
2:03-cv-03621-BJR	2:03cv74	Hughes, Jimmie v. Bayer Corporation, et al	David's One-Stop Inc
2:02-cv-02533-BJR	4:02cv429	Ingram, Florence v. Bayer Corporation, et al	Mims Convenience Store, Patel's, Brandon Discount Drugs, Double Quick, Food Mart
2:03-cv-02104-BJR	2:01cv12	Jackson, Billie R. v. Bayer Corporation, et al	Waring Oil
2:03-cv-03513-BJR	5:03cv270	Jackson, Clementine v. Wyeth, et al	Long's Pharmacy, Fred's, Rite-Aid, Super D, Walgreens, Wal-Mart
2:03-cv-03399		Johnson, Blanche v. Block Drug Company, et al	City Drug Store, Inc.
2:03-cv-02219-BJR	3:02cv1844	Johnston, Pamela v. Bayer Corporation, et al.	Wal-Mart
2:03-cv-02728-BJR	4:03cv86	Jones, Annie R v. Wyeth, et al	Wallace Drug Company

<u>MDL CT NO.</u>	<u>DISTRICT COURT NO.</u>	<u>CASE CAPTION</u>	<u>RETAILER(S)</u>
2:03-cv-03858-BJR	2:03cv189	Jones, Brenda v. Wyeth, et al	Rite Aid
2:03-cv-3515-BJR	03cv00270	Jones, Georgia and Jimmie Jones v. Perrigo, et al	Winn-Dixie
2:03-cv-02730-BJR	03cv04	Jones, Robert v. Block Drug Company Inc, et al	Wallace Drug Co.
2:03-cv-03035-BJR	03cv00058	Jones, Sherry et al v. Bayer Corporation, et al.	Supermarket Co.
2:03-cv-02712-BJR	2:03cv758	Keyes, Dianne et al v. Bayer Corporation, et al	C&C Drugs
2:03-cv-03857-BJR	2:03cv189	Kirk, George v. Wyeth, et al	Rite-Aid
2:03-cv-00851-BJR	3:03cv125	Knight, Joe et al v. Bayer Corporation, et al	People's Drug Store
2:03-cc-03530		Ladner, Betty v. Novartis Pharmaceuticals Corporation, et al	Diamondhead Discount Drugs, Inc.
2:03-cv-03758		Ladner, Betty v. Wyeth, et al	Diamondhead Discount Drugs, Inc.
2:03-cv-02097-BJR	4:01cv169	Lambert, Brenda v. Bayer Corporation, et al	Wal-Mart
2:03-cv-02738-BJR	03cv00157	Landers, Mac Ruth v. Bayer Corporation, et al	McDaniel Pharmacy
2:03-cv-03407-BJR	2:03cv83	Lang, Lizzie v. Wyeth, et al	Townsend & Sons d/b/a Sunflower Food Store
2:03-cv-03611-BJR	2:03cv82	Lewis, Lee Grant v. Wyeth, et al	Sanders Pharmacy
2:03-cv-03853-BJR	2:03cv189	Lindsey, Robert v. Wyeth, et al	Rite Aid
2:03-cv-03397		Martin, Jacqueline B. v. Block Drug Co. et al	R&M Foods, Inc.
**2:03-cv-03529-BJR		Mays, Betty v. Chattem, Inc. et al	French's Pharmacy, Inc.

<u>MDL CT NO.</u>	<u>DISTRICT COURT NO.</u>	<u>CASE CAPTION</u>	<u>RETAILER(S)</u>
2:04-cv-00023-BJR	03-cv-197	McClure, August v. Bayer Corporation, et al	McDaniel Pharmacy
2:03-cv-02709-BJR	4:03cv73	McDuffy, Grace v. Bayer Corporation, et al	Magic Mart
2:01-cv-01652-BJR	3:01cv528	McGuffee, John et al v. Bayer Corporation, et al	Universal Trading Co d/b/a Mini Mart and Trang Lee d/b/a Lee's BBQ
2:03-cv-03862-BJR	2:03cv189	McNees, Brian v. Wyeth, et al	Rite Aid
2:03-cv-03626-BJR	2:03cv74	Mitchell, Magdelena v. Bayer Corporation, et al	Ken's Discount Pharmacy
2:03-cv-03627		Moody, Coelia v. Bayer Corporation, et al	Huff Pharmacy, Inc.
2:03-cv-03396-BJR	2:03cv78	Moore, Gordon v. Block Drug, et al	Eastside Drug
2:03-cv-03527-BJR	5:03cv124	Moore, James Olen v. Block Drug, et al	East Heights Pharmacy
2:03-cv-03526-BJR	5:03cv124	Morgan, James Henry v. Bayer Corporation, et al	Wells Pharmacy
2:03-cv-03395-BJR	2:03cv78	Nelson, Ora v. Block Drug, et al	May's Pharmacy
2:03-cv-03406-BJR	2:03cv83	New, Max v. Wyeth, et al	Corner Drug Store
**2:02-cv-00421-BJR	2:01-cv-198-pct	Newell, Dorothy et al v. American Home Product Corporation, et al	Wal-Mart and Cooley Drug, Inc.
2:03-cv-03575-BJR	5:03cv124	Newsome, Rosetta v. Perrigo Co., et al	McGuffee Drug
C01-1874	3:01cv 665BN	Owens, Elven M. v. Novartis Consumer Health Inc., et al.	Mr. Discount Drugs
2:03-cv-02491-BJR	3:03cv470	Paige, Emmit v. Bayer Corporation, et al	Kroger
2:04-cv-00719-BJR	04-cv-79	Pipes, Alex v. Bayer Corporation, et al	Gillis Drug Store

<u>MDL CT NO.</u>	<u>DISTRICT COURT NO.</u>	<u>CASE CAPTION</u>	<u>RETAILER(S)</u>
2:02-cv-02537-BJR	3:02cv498	Pipes, Helen v. Bayer Corporation, et al	Gillis Drugs
2:03-cv-03863-BJR	2:03cv189	Pippens, Charles v. Wyeth, et al	Rite Aid
2:03-cv-03632-BJR	2:03cv82	Poole, Eula Jean v. Wyeth, et al	Steelman Grocery
2:03-cv-03572-BJR	5:03cv124	Raincy, Kattie v. Bayer Corporation, et al	Bridges Kwik Way
2:03-cv-03571-BJR	5:03cv124	Randle, Roosevelt v. Bayer Corporation, et al	Economy Discount Drugs
2:02-cv-01372-BJR	4:02cv18	Ratliff, Eddie v. Wal-Mart, et al	Wal-Mart, Kroger
2:03-cv-02273-BJR	5:03cv221	Reed, Isiah v. Bayer Corporation, et al	Independent Oil d/b/a By-Pass Exxon
2:03-cv-03570-BJR	5:03cv124	Richardson, Debra v. Bayer Corporation, et al	Condon Discount Drugs Store
2:03-cv-02100-BJR	2:02cv12	Richter, Rosa v. Wyeth, et al	K-Mart
2:03-cv-01250-BJR	3:03cv260	Roberts, Brenda v. Bayer Corporation, et al	Wal-Mart
2:03-cv-03634-BJR	2:03cv74	Roberts, Eddie v. Bayer Corporation, et al	Aberdeen Big Star
2:03-cv-03635-BJR	2:03cv74	Roberts, Juanita v. Bayer Corporation, et al	Super 2 Foods
2:03-cv-00847-BJR	2:03cv03	Roberts, Leroy et al v. Bayer Corporation, et al	Morris Oil d/b/a Shell Food Mart
2:03-cv-03636-BJR	2:03cv74	Robinson, Charles v. Bayer Corporation, et al	Ken's Discount Pharmacy
2:03-cv-02212-BJR	3:02cv1844	Rogers, Margaret v. Bayer Corporation, et al	Wal-Mart

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2:03-cv-02176-BJR	4:02cv521	Russ, Edna et al v. Wyeth, et al	Fred's, Canton Discount Drugs, Rite-Aid, B&O Pharmacy, Hudson's, Winn Enterprises, Wal-Mart
2:03-cv-03637-BJR	2:03cv74	Sanders, George v. Bayer Corporation, et al	Pearson's Discount Drug Store
2:04-cv-00354-BJR	4:03cv207	Scott, Roy Allen v. Bayer Corporation, et al	Double Quick
**2:03-cv-02284-BJR	3:02cv182	<i>Serio, Joe v. Wyeth, et al</i>	<i>Wal-Mart Supercenter</i>
2:03-cv-03514-BJR	5:03cv270	Sharpe, Raymond v. Wyeth, et al	Rite Aid
2:03-cv-03568-BJR	5:03cv124	Silvers, Lewis v. Bayer Corporation, et al	Fred's Dollar Store
2:03-cv-03567-BJR	5:03cv124	Singleton, Brenda v. Bayer Corporation, et al	Fred's Super Dollar Store
2:03-cv-03566-BJR	5:03cv124	Small, Robert v. Bayer Corporation, et al	Fred's
2:03-cv-03508-BJR	5:03cv270	Smith, Aaron v. Wyeth, et al	Long's Pharmacy
2:02-cv-02536-BJR	2:02cv562	Smith, Dina et al. v. American Home Products, et al	Don's Professional Drugs
2:03-cv-3413	2:03cv73	Smith, John C. v. Novartis, et al	Stephen L. LaFrance Pharmacy a/k/a Super D. Acquisition Co.
2:03-cv-03565-BJR	5:03cv124	Smith, Evelyn v. Bayer Corporation, et al	Fast Lane
2:03-cv-03638-BJR	2:03cv82	Smith, Tommie v. Wyeth, et al	Bings Total Discount Market
2:03-cv-03866-BJR	2:03cv189	Solimando, Katherine v. Wyeth, et al	Rite Aid
2:03-cv-3402-BJR	4:03cv59	Stevens, Kenneth v. Bayer Corporation, et al	Maple Gas Company d/b/a Stuckey's

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2:03-cv-03641-BJR	2:03cv74	Stover, Bobbie J. v. Bayer Corporation, et al	Winn-Dixie Stores
2:03-cv-03392-BJR	2:03cv78	Strong, Elnora v. Block Drug, et al	Fred's Dollar Store
**2:03-cv-02761-BJR	3:03cv636	<i>Stuart, Jr., Ellis A. et al v. Bayer Corporation, et al</i>	Wal-Mart
2:03-cv-03225-BJR	4:03cv114	Sykes, Mittie et al v. Bayer Corporation, et al	Wal-Mart
03-cv-3523-BJR	5:03-cv-178-BrS	Tate, Audria v. Perrigo, et al.	Dollar General
2:03-cv-03644-BJR	2:03cv74	Taylor, Donah Elaine v. Bayer Corporation, et al	Sunflower Food Store
2:04-cv-00019-BJR	4:03cv153	Thigpen, James D. et al v. Bayer Corporation, et al	Wallace Drug Company
2:03-cv-03645-BJR	2:03cv74	Thomas, Courtney v. Bayer, et al	Wal-Mart
2:03-cv-03405-BJR	2:03cv83	Thomas, Earlene, et al v. Wyeth, et al.	Kroger
2:03-cv-02487-BJR	3:02cv1843	Thompson, Elaine v. Bayer Corporation, et al	Fred's
2:03-cv-03116-BJR	3:03-cv-64M-B	Tice, Kasidy v. Wyeth, et al	Tyson Drugs Store
2:03-cv-03030-BJR	03-00216	Tingle, Marcus v. Bayer Corporation, et al	Wal-Mart
2:03-cv-03402-BJR	03-cv-78	Thomas, Sandra v. Block Drug Company, et al.	Maples Gas Company d/b/a Stuckey's Express
2:02-cv-02531-BJR	2:02cv00132	Towner, Robert v. Wyeth, et al	Fava Grocery and Service Station
2:04-cv-00015-BJR	2:03cv1932	Townsend, Nathan et al v. American Home Products, et al	Highpoint Truck and Travel, Wal-Mart

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2:03-cv-03562-BJR	5:03cv124	Trehern, Amanda Renec v. Bayer Corporation, et al	Firth's Quick Stop
2:03-cv-02208-BJR	3:02cv1844	Tucker, James on behalf of late Lillie Tucker v. Bayer Corporation, et al	Rite Aid
2:03-cv-03126-BJR	2:03cv189	Tucker, Leatha et al v. Wyeth, et al	Rite-Aid
2:03-cv-03646-BJR	2:03cv74	Turner, Mary O v. Bayer Corporation, et al	Sullivans Drug Store
2:02-cv-00882-BJR	5:01cv339	Uwagboe, Catherine v. Whitehall Robins, et al	Bankston Drugs
2:04-cv-00716	04-cv-42	Wade, Dennis v. Bayer Corporation, et al	Aberdeen Big Star; David's One Stop, Inc.; Dikets Professional Drugs, Inc.; Ken's Discount Pharmacy; Mitchell's Supermarket, Inc.; Pearson Drugs; Sanders Pharmacy; Strickland Drugs; Wells Discount Drugs; Winn-Dixie Stores
2:03-cv-01006	C03-183	Walker, Evone v. Bayer Corporation, et al	Eckerd Drug
2:03-cv-02740-BJR	03-00160	Walker, Marilyn v. Bayer Corporation, et al	McDaniel Pharmacy
2:03-cv-02168-BJR	4:02cv521	Wallace, Willie v. Wyeth, et al	Fred's, Canton Discount Drugs, Rite-Aid, Hudson's, Winn Enterprises, Wal-Mart
2:04-cv-00176-BJR	2:03cv189	Ware, Pecola v. Wyeth, et al	Rite-Aid
2:03-cv-03648-BJR	2:03cv74	Warfield, Antoinc v. Bayer Corporation, et al	Double Quick

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2:03-cv-01109-BJR	5:03cv131	Washington, Antoinette v. Bayer Corporation, et al	Wal-Mart
2:03-cv-00539-BJR	3:02cv1473	Watts, Rudy v. Bayer Corporation, et al	Rushing d/b/a Piggly Wiggly
**2:03-cv-02278-BJR	3:02cv182	<i>Wells, Bonnie v. Wyeth, et al</i>	<i>Wal-Mart</i>
2:03-cv-02763-BJR	3:03cv722	Wheeler, Tyree et al v. Bayer Corporation, et al	Circle B
2:03-cv-03649-BJR	2:03cv74	White, Carolyn v. Bayer Corporation, et al	Sunflower Food Store
2:03-cv-03649-BJR	2:03cv74	White, Carolyn v. Bayer Corporation, et al	Sunflower Food Store
2:03-cv-03391-BJR	2:03cv78	Whitehead, Linda v. Block Drug, et al	Jue's Foodland, Sam Sing Company, Inc., Double Quick, Eastside, Fred's May's Pharmacy, Well's Discount Drugs, Myatt's Food Store, Inc.
2:03-cv-02057-BJR	2:02cv261	Wilkinson, Mary Coats et al v. Bayer Corporation, et al	Delta Drugs, Kroger
2:03-cv-02762-BJR	3:03cv713	Williams, Donell v. Bayer Corporation, et al	Independent Oil d/b/a By-Pass Exxon
2:03-cv-00863-BJR	03-cv-60	Williams, Jonetta v. Bayer Corporation, et al	The Natchez Market
2:02-cv-00797-BJR	5:02cv00014	Williams, Rita v. Bayer Corporation, et al	VonJon's Pharmacy
2:02-2532 BJR	02cv48	Wilson, Eugene v. American Home Products Corporation, et al	Buckley's Pharmacy

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2:03-cv-02127-BJR	WDLA 02-cv-239	Ashley, Angela and Eddie Ashley v. American Home Products, et al	Wal-Mart
2:02-cv-01705-BJR	WDLA 02-cv-539	Bailey, Lawrence v. Bayer Corporation, et al	Wal-Mart
**2:02-cv-01769-BJR	WDLA 02-cv-533	<i>Barnes, Gloria v. Bayer Corporation, et al</i>	<i>Eckerd, Winn-Dixie, Walgreen, Albertsons</i>
2:02-cv-01760-BJR	MDLA 02-cv-213	Bates, Jerry v. Chattem, et al.	Wal-Mart, Walgreen, K&B Louisiana Corp., Kmart
**2:02-cv-01748-BJR	EDLA 02-CV-886	<i>Benjamin, Catherine v. Bayer Corporation, et al</i>	<i>K&B Louisiana Corp. d/b/a Rite Aid, Walgreen</i>
2:02-CV-01749-BJR	EDLA 02-CV-887	Brady, Deborah v. Bayer Corporation, et al	Walgreen
2:02-cv-01768-BJR	MDLA 02-cv-336	Brown, Nettie v. GlaxoSmithKline PLC, et al	Wal-Mart
**2:02-cv-01730-BJR		<i>Michael Brumfield v. GlaxoSmithKline PLC, et al</i>	<i>Walgreen</i>
**2:02-cv-01729-BJR	EDLA 02-cv-772	<i>Cage, Gloria v. Whitehall-Robins, et al</i>	<i>Walgreen</i>
2:01-cv-02068-BJR	WDLA 01-cv-1632	Calhoun, Demetris v. Bayer Corporation, et al	K&B Louisiana Corp.
2:02-CV-01723-BJR	EDLA 02-CV-1723	Carter, William v. Bayer Corporation, et al	Eckerd, Winn-Dixie
2:02-cv-02528-BJR	EDLA 02-cv-2468	Celestine, Gloria v. Wyeth Company, et al	Rite-Aid, Walgreen

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2:02-cv-01778-BJR	WDLA 02-cv-355	Charles, Joseph v. Bayer Corporation, et al	Wal-Mart, K&B Louisiana Corp.
2:03-cv-00890-BJR	EDLA 03-cv-0132	Checks, Arthur and Calista Checks v. Bayer Corporation, et al	Walgreen
2:02-cv-01707-BJR	EDLA 02-cv-00577	Christy, Ronald v. Bayer Corporation, et al	Rite Aid Corp., K&B Louisiana Corp.
2:02-cv-01742-BJR	EDLA 02-cv-846	Clark, Gary v. Glaxo Smithkline PLC, et al	Albertson's, Wal-Mart
2:01-cv-02015-BJR	WDLA 01-cv-1896	Claville, Abon L. v. Bayer Corporation, et al	K&B Louisiana Corp.
2:02-cv-01763-BJR	MDLA 02-cv-238	Connell, Rosetta v. Schering-Plough Corp., et al	Wal-Mart, Eckerd
2:02-cv-01726-BJR	EDLA 01-cv-749	Counts, Laura v. Novartis Pharmaceuticals Corporation, et al	Eckerd
**2:02-cv-00891-BJR	EDLA 01-cv-3490	Craft, Wallace v. Chattem Inc., et al	Rite Aid
2:02-cv-02593-BJR	EDLA 01-cv-3044	Danby, Ricky L. II, et al v. Bayer Corporation, et al	Winn-Dixie
2:03-cv-02125-BJR	WDLA 02-cv-239	Davis, James Louis v. American Home Products Corp, et al	Wal-Mart
2:02-cv-02527-BJR	EDLA 2:02-2436	Donnelly, Daphine B. v. Bayer Corp. et al	Walgreen
2:03-cv-02124-BJR	WDLA 02-cv-239	Doucet, Sherry v. American Home Products Corp, et al	Wal-Mart
2:02-cv-01757-BJR	MDLA 02-cv-210	Emery, David Jr. v. Bayer Corporation, et al	Wal-Mart, K&B Louisiana Corp.
2:02-cv-01776-BJR	WDLA 02-cv-457	Evans, Norman v. Bayer Corporation, et al	Wal-Mart

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2:02-cv-00888-BJR	EDLA 01-cv-3478	Favorito, Jeanette P., et al v. Bayer Corporation, et al	Walgreen
2:01-cv-02017-BJR	WDLA 01-cv-1940	Foster, Jessie v. Bayer Corporation, et al	K&B Louisiana Corp.
2:02-cv-00884-BJR	EDLA 01cv-3424	Garcia, Alejandro and Marcia Garcia v. Smithkline Beecham Corporation, et al	Rite-Aid
2:02-cv-00890-BJR	EDLA 01-cv-3484	Garrison, Quincy et al v. Whitehall-Robins, et al	Walgreen
**2:02-cv-01732-BJR	EDLA 02-cv-808	<i>Gasper, Carol v. Bayer Corporation, et al</i>	<i>Wal-Mart, K&B Louisiana Corp.</i>
2:02-cv-01369-BJR	EDLA 02-cv-351	Jackson, Debra v. Bayer Corporation, et al	Rite-Aid Corp.
2:02-cv-01718-BJR	EDLA 02-cv-704	Jackson, Gloria v. Novartis Pharmaceuticals Corporation, et al	Walgreen
2:02-cv-02156-BJR	WDLA 02-cv-805	Johnson, Alma v. Bayer Corporation, et al	Wal-Mart, K&B Louisiana Corp. d/b/a Rite-Aid Corp.
2:01-cv-02050-BJR	WDLA 01-cv-1746	Johnson, Mozetta v. Bayer Corporation, et al	K&B Louisiana Corp.
**2:02-cv-02148-BJR	EDLA 02-cv-1007	<i>Lacey, Betty v. Bayer Corporation, et al</i>	<i>Wal-Mart</i>
2:03-cv-02126-BJR	WDLA 02-cv-239	Lee, Howard v. American Home Products Corp, et al	Wal-Mart
2:02-cv-00892-BJR	EDLA 01-cv-3522	Lee, Mary and Ernest Lee v. Whitehall-Robbins, et al	Walgreen
2:02-cv-01734-BJR	EDLA 02-cv-819	Lee, Veda v. Bayer Corporation, et al	Walgreen

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2	2:02-cv-01715-BJR	EDLA 02-cv-673	Martin, Andrew v. Bayer Corporation, et al	Wal-Mart
3	2:02-cv-00887-BJR	EDLA 01-cv-3477	Martin, Doreen v. Bayer Corporation, et al	Walgreen
4	2:02-cv-01711-BJR	EDLA 02-cv-642	McCravy, Rose v. Bayer Corporation, et al	Walgreen, K&B Louisiana Corp. d/b/a Rite Aid
5	2:03-cv-02122-BJR	WDLA 02-cv-239	McDaniel, Dwayne and Edna v. American Home Products Corp, et al	Wal-Mart
6	2:01-cv-01859-BJR	WDLA 01-cv-1820	McFee, Tamika v. Bayer Corporation, et al	K&B Louisiana Corp.
7	2:03-cv-02121-BJR	WDLA 02-cv-239	Miley, Jimmy and Sandra v. American Home Product Corp, et al	Wal-Mart
8	2:02-cv-01762-BJR	MDLA 02-cv-234	Nelson, Jonathan v. Bayer Corporation, et al	Wal-Mart
9	2:02-cv-01721-BJR	EDLA 02-cv-724	Ohilia, Barbara v. Novartis Pharmaceuticals Corporation, et al	Rite-Aid
10	2:02-cv-01780-BJR	WDLA 02-cv-639	Ortego, Helen v. Bayer Corporation, et al	Wal-Mart, Eckerd
11	2:02-cv-00909-BJR	EDLA 02-cv-524	Parker, Joseph and Stephanic Parker v. Sally's Grocery, et al	Sally's Grocery
12	2:01-cv-02010-BJR	WDLA 01-cv-1626	Rambo, Roy Lee v. Bayer Corporation, et al	K&B Louisiana Corp. d/b/a Rite Aid Corp.
13	2:01-cv-02059-BJR	WDLA 01-cv-1488	Samuels, Sheila et al v. Bayer Corporation, et al	K&B Louisiana Corp.

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1	2:04-CV-00064-BJR	EDLA 03-CV-2888	Scott, Ralph v. Bayer Corporation, et al	Walgreen, K&B Louisiana Corp., Winn-Dixie, Eckerd
2	2:02-CV-01770-BJR	WDLA 02-CV-517	Smith, Robert v. Bayer Corporation, et al	Wal-mart
3	**2:02-cv-00910-BJR	MDLA 02-cv-196	<i>Sparks, Jessie Joseph and Maxine Sparks v. Novartis Consumer Health, Inc., et al</i>	<i>Wal-Mart, Bobbens, Inc.</i>
4	2:02-cv-01777-BJR	WDLA 02-cv-465	Specht, Barbara v. Bayer Corporation, et al	Wal-Mart
5	2:02-cv-02152-BJR	EDLA 02-cv-1384	Thompson, Lawrence v. Bayer Corporation, et al	Eckerd, Walgreen
6	2:02-cv-01764-BJR	MDLA 02-cv-258	West, David v. Bayer Corporation, et al	K&B Louisiana Corp. d/b/a Rite Aid
7	2:02-cv-01773-BJR	WDLA 02-cv-354	West, James v. Bayer Corporation, et al	Wal-Mart
8	2:02-cv-01366-BJR	EDLA 02-cv-290	Williams, Dianna J. v. Bayer Corporation, et al	Wal-Mart, Eckerd

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2:03-cv-00495BJR		Ella Richardson v. Bayer Corporation et al	Solomon Drug, Inc.

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2 **EXHIBIT B**
3 **MISSISSIPPI**
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2:03-cv-02276		McCray, Patricia v. Bayer Corporation, et al	R&M Foods, Inc. d/b/a Sunflower Food Store #64
2:03-cv-02286-BJR		Wilson, Walter v. Block Drug Company, Inc., et al	M&M Superstore, Inc.

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2:01-cv-02068		Calhoun, Demetris v. Bayer Corporation, et al	K&B Louisiana Corporation
2:01-cv-02046-BJR		Douglas, Horace v. Bayer Corporation, et al	K&B Louisiana Corporation
2:02-cv-02147-BJR	EDLA 02-cv-998	Harris, Donald v. Whitehall-Robins, et al	Wal-Mart
2:02-cv-02123-BJR	WDLA 02-cv-239	Maddox, Kennon v. American Home Products Corp., et al	Wal-Mart
2:02-cv-02170-BJR	WDLA 01-cv-2233	Pratt, Merk and Hazel v. Bayer Corporation, et al	Brookshire's, Rite Aid d/b/a K&B Louisiana Corp.
2:01-cv-2059		Samuels, Sheila v. Bayer Corporation, et al	K&B Louisiana Corporation
2:02-cv-00276-BJR	WDLA 01-cv-2461	Sapp, Joseph v. Bayer Corporation, et al	Brookshire's